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April 30, 2021

VIA ECF

Hon. Kevin N. Fox, U.S.M.J.
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

**Re: Actava TV, Inc., et al. v. Joint Stock Company “Channel One Russia
Worldwide” et al. (18-cv-06626)**

Dear Judge Fox:

We write to update the Court about the Court-ordered deposition of Matvil Corporation (“Matvil”) pursuant to this court’s Letters Rogatory dated July 31, 2019 (ECF No. 119 at 5), the Canadian Court’s order implementing them dated July 23, 2020, and this Court’s recent Order permitting that deposition to take place on Tuesday April 27, notwithstanding the end of discovery, after Matvil unilaterally adjourned the scheduled deposition twice (ECF Nos. 301, 307).

The deposition began normally at 9:35 a.m., but was swiftly met with blanket instructions from Matvil’s Canadian and U.S. counsel to the witness, Matvil’s CEO, not to answer our questions on grounds of relevance, in violation of the Federal and Local Rules. They made extensive speaking objections, which were translated to the witness and which wasted time allocated to his testimony, even though our questions all directly related the facts of this case. They justified this obstructive behavior by claiming for the first time that the topics of examination were somehow limited by court order. Matvil’s U.S. counsel, Seth Goldman, stated “I am not [just] objecting . . . You’re not limiting it in the way that it should be and that the Judge agreed to.” Tr. at 39:11-13.¹ Plaintiffs plan to seek relief before the Ontario Superior Court of Justice in Canada both (i) to require Matvil to re-appear for the remaining 1 hour and 45 minutes of its deposition²; and (ii) to compel Matvil to produce documents responsive to the Letters Rogatory – namely emails and “letters” between Matvil and the Channels at or around the time Matvil terminated the Referral Agreement at issue herein. In October 2018, one of Matvil’s co-owners at the time stated to Actava in a recorded telephone call that a text message and “letters” existed. Matvil’s CEO testified on Tuesday that there were additional responsive emails. That directly contradicts the representations of Matvil’s counsel that all such communications have been produced.

¹ On July 31, 2019, the Court ordered issuance of “letters rogatory for the production of documents by and the taking of the deposition of a corporate representative of Matvil as a witness in this action.” ECF No. 119 at 5. On June 23, 2020, the Ontario Superior Court of Justice ordered that a “representative of Matvil shall appear . . . in a deposition to be conducted under the laws applied by the SDNY Court.” Thereafter, Matvil sought to limit the scope of its document production to exclude certain financial data. However, neither the Canadian Court nor this Court ever limited the subject matter of Matvil’s deposition testimony.

² Remarkably, when counsel for the Channels (other than Channel One Russia) and Kartina asked questions in cross examination, even about Matvil’s business dealings with third parties, Matvil’s U.S. and Canadian counsel permitted that questioning to proceed, notwithstanding their blanket objections to Actava’s questioning as described above. Tr. at 148:18 – 149:4.



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We have demanded that Matvil's Canadian counsel provide a full production of all Matvil's communications with the Channels during the relevant period by Monday, May 3. We hope that further court intervention will not be necessary, but thought it necessary to inform the Court of the obstructive conduct that Matvil's US and Canadian counsel engaged in this week, and our efforts to date to secure compliance with this Court's orders.

Thank you for your time and consideration.

Respectfully submitted,
/s/ Toby Butterfield